

EXHIBIT 26

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California Department of Justice

Silva, Ramon

ROI 06 - BI-LA2022-00016 - Horbino, Evencio

Page 1

1 SPECIAL AGENT TONY BACA: Today is May
2 4th. It's approximately 3:58 or 1558 hours. My
3 name is Tony Baca, that's B A C A, from the
4 California Department of Justice, California
5 Police Shooting Investigative Team. Also present
6 with me is --

7 SPECIAL AGENT ALVIN HERNANDEZ: Special
8 Agent Alvin Hernandez, ID Number 17-0035.

9 INVESTIGATOR JASON CHILD: Investigator
10 Jason Child, ID 20868.

11 SPECIAL AGENT TONY BACA: And we're
12 here with Mr. Evencio Horbino. Can you spell out
13 your first and last name?

14 EVENCIO HORBINO: E V E N C I O for
15 Evencio. Last name Horbino, H O R B I N O.

16 SPECIAL AGENT TONY BACA: And your date
17 of birth?

18 EVENCIO HORBINO: May 3 1954.

19 SPECIAL AGENT TONY BACA: We're here in
20 regards to an incident that happened earlier
21 today. If you would tell us what you what you
22 saw, what you remember?

23 EVENCIO HORBINO: Okay. I was driving,
24 following this truck. And all of a sudden they
25 stopped. And I saw this guy running towards,

Page 2

1 towards the patrol car. The guy, the other
2 police on the passenger side tells him to stop
3 walking, but he keeps on walking. And when he
4 told him to stop, he suddenly run towards the
5 passenger side -- I mean on the driver's side.
6 And the police told him to stop. He didn't stop.
7 He ran faster, facing, look him once, and then go
8 towards the driver's side, and that's when he got
9 shot.

10 SPECIAL AGENT TONY BACA: What lane
11 were you driving in?

12 EVENCIO HORBINO: I'm sorry?

13 SPECIAL AGENT TONY BACA: What were you
14 driving, first of all?

15 EVENCIO HORBINO: Right where my truck
16 is.

17 SPECIAL AGENT TONY BACA: Where's your
18 truck at because we're recording. This is not a
19 video, sir.

20 EVENCIO HORBINO: It's on the second
21 lane.

22 SPECIAL AGENT TONY BACA: Which way is
23 it facing?

24 EVENCIO HORBINO: Facing towards --

25 SPECIAL AGENT TONY BACA: That's west,

1 that side. That's east.

2 EVENCIO HORBINO: West.

3 SPECIAL AGENT TONY BACA: And what
4 freeway is this?

5 EVENCIO HORBINO: 105 Freeway?

6 SPECIAL AGENT TONY BACA: And where
7 were you heading towards?

8 EVENCIO HORBINO: I'm going towards to
9 the 710 Freeway.

10 SPECIAL AGENT TONY BACA: What lane
11 where you in?

12 EVENCIO HORBINO: Second lane to the
13 right?

14 SPECIAL AGENT TONY BACA: So you're in
15 the second lane to the right and you were
16 traveling westbound towards the 710 Freeway?

17 EVENCIO HORBINO: Yes, sir.

18 SPECIAL AGENT TONY BACA: Okay. And
19 you're driving a white --

20 EVENCIO HORBINO: White Toyota Tacoma
21 truck.

22 SPECIAL AGENT TONY BACA: So a Tacoma.
23 Okay. And how far are you from where the
24 shooting happened?

25 EVENCIO HORBINO: It's probably about

1 four lengths, car.

2 SPECIAL AGENT TONY BACA: Four lengths
3 cars?

4 EVENCIO HORBINO: Yes. Just where it
5 is right now.

6 SPECIAL AGENT TONY BACA: Where it is?
7 Okay. And you said that you saw something. What
8 did you see?

9 EVENCIO HORBINO: I see the guy walking
10 towards the patrol car. And then the police told
11 him to stop, but he didn't stop. He kept on
12 walking, going faster and faster. I heard the
13 police telling him to stop. He went faster and
14 faster. He didn't, he didn't, he didn't stop.
15 The police told him to stop and he didn't stop.
16 That's when he got shot.

17 SPECIAL AGENT TONY BACA: What was he
18 wearing?

19 EVENCIO HORBINO: I know he was wearing
20 a shorts.

21 SPECIAL AGENT TONY BACA: Shorts.
22 Okay. Do you remember how he looked?

23 EVENCIO HORBINO: He's kind of big guy,
24 a little bit dark, the way I see it. And then
25 yeah.

1 SPECIAL AGENT TONY BACA: So the police
2 said "Stop." Those were their words?

3 EVENCIO HORBINO: Yeah, yeah.

4 SPECIAL AGENT TONY BACA: How many
5 times did you tell him?

6 EVENCIO HORBINO: Probably 3, 3 times.
7 Stop. Stop. Stop.

8 SPECIAL AGENT TONY BACA: How many
9 times did they tell him?

10 EVENCIO HORBINO: I would say about
11 three times.

12 INVESTIGATOR JASON CHILD: Your window
13 is down so you heard it clearly?

14 EVENCIO HORBINO: Yeah.

15 INVESTIGATOR JASON CHILD: Okay.

16 EVENCIO HORBINO: Because I was, I was
17 already looking at it. Why? So I'm keeping my
18 eyes.

19 INVESTIGATOR JASON CHILD: Okay.

20 SPECIAL AGENT TONY BACA: Was the
21 traffic moving or was it slow?

22 EVENCIO HORBINO: Yeah, it was moving
23 slow, slow. It started from over there slowing
24 and all of a sudden police come over, all over
25 the place, and that's when that car stopped and

Page 6

1 then tell him to stop and he doesn't stop.

2 SPECIAL AGENT TONY BACA: Where did it
3 start?

4 EVENCIO HORBINO: The what?

5 SPECIAL AGENT TONY BACA: You said it
6 started from over there.

7 EVENCIO HORBINO: Oh, the traffic?

8 SPECIAL AGENT TONY BACA: Where, where?

9 EVENCIO HORBINO: The traffic was
10 slowed down about I would say about a mile.

11 INVESTIGATOR JASON CHILD: A mile?

12 EVENCIO HORBINO: Yeah.

13 INVESTIGATOR JASON CHILD: Okay.

14 EVENCIO HORBINO: It's slowing down.

15 SPECIAL AGENT TONY BACA: Where was
16 this guy? Did you see him on the freeway?

17 EVENCIO HORBINO: No, I only see him on
18 the back of the, they're already, on the back of
19 the patrol car. About maybe about, about two car
20 lengths behind the squad truck.

21 SPECIAL AGENT TONY BACA: Was he
22 walking?

23 EVENCIO HORBINO: Walking, he was
24 walking?

25 SPECIAL AGENT TONY BACA: How was he

Page 7

1 acting?

2 EVENCIO HORBINO: Kind of looks like
3 high guy. Maybe some drugs or I didn't know
4 because he doesn't, he doesn't listen to the
5 police. I mean if he is a straight guy, you
6 know, he should -- he should have followed what
7 he was being told to do.

8 INVESTIGATOR JASON CHILD Okay. And
9 which way was he walking?

10 EVENCIO HORBINO: He was walking in
11 front of this truck, behind the squad car.

12 INVESTIGATOR JASON CHILD: What truck
13 are you pointing at?

14 EVENCIO HORBINO: The gardener's truck,
15 the white one. That and behind the squad car, in
16 between, that's where I saw.

17 INVESTIGATOR JASON CHILD: And what did
18 you hear?

19 EVENCIO HORBINO: Well the police told
20 him to stop and stop three times. He didn't
21 stop. He went faster as he gets closer to the
22 driver's side. And that's when he got shot.

23 SPECIAL AGENT TONY BACA: Where were
24 his hands?

25 EVENCIO HORBINO: Just walking.

Page 8

1 SPECIAL AGENT TONY BACA: The whole
2 time?

3 EVENCIO HORBINO: The whole time.
4 Yeah, going faster as it gets closer to the
5 driver's side. That's why he got I think that's
6 why he got shot.

7 SPECIAL AGENT TONY BACA: Driver's side
8 of what?

9 EVENCIO HORBINO: Oof the squad car,
10 patrol car.

11 SPECIAL AGENT TONY BACA: Did he have
12 anything in his hands?

13 EVENCIO HORBINO: I didn't see, I
14 didn't I didn't notice it.

15 SPECIAL AGENT TONY BACA: Did you see
16 his hands?

17 EVENCIO HORBINO: No.

18 SPECIAL AGENT TONY BACA: You didn't
19 see his hands?

20 EVENCIO HORBINO: No.

21 SPECIAL AGENT TONY BACA: He had his
22 back towards you?

23 EVENCIO HORBINO: On the side.

24 SPECIAL AGENT TONY BACA: What side was
25 towards you?

Page 9

1 EVENCIO HORBINO: On the side. I think
2 it's on the side.

3 SPECIAL AGENT TONY BACA: What are you
4 pointing? What side are you are you pointing at?

5 EVENCIO HORBINO: On my left-hand side,
6 I believe. Left hand side I think. I'm not
7 really sure. But he has a bag, but I didn't see
8 his hand. I saw him walking with his back. I
9 don't know, maybe it's (indiscernible) inside.

10 INVESTIGATOR JASON CHILD: So he had a
11 backpack?

12 EVENCIO HORBINO: Yeah.

13 INVESTIGATOR JASON CHILD: What color
14 was the backpack?

15 EVENCIO HORBINO: Kind of dark. It's
16 not white. I know that.

17 INVESTIGATOR JASON CHILD: How many
18 shots did you hear?

19 EVENCIO HORBINO: Three or four.

20 INVESTIGATOR JASON CHILD: Did you see
21 the officer that shot him?

22 EVENCIO HORBINO: Yes.

23 INVESTIGATOR JASON CHILD: What was he
24 wearing?

25 EVENCIO HORBINO: Police color.

Page 10

1 INVESTIGATOR JASON CHILD: Can you
2 describe it to me?

3 EVENCIO HORBINO: Like kaki.

4 SPECIAL AGENT TONY BACA: What are you
5 pointing at?

6 EVENCIO HORBINO: The police officer.

7 SPECIAL AGENT TONY BACA: What's he
8 wearing? What color?

9 EVENCIO HORBINO: What's that? Kaki?
10 I'm color blind

11 SPECIAL AGENT TONY BACA: How did you
12 know he was a police officer?

13 EVENCIO HORBINO: Because he's in
14 uniform.

15 SPECIAL AGENT TONY BACA: Did you see
16 anything else? Did you see anything else on him
17 that made him a police officer?

18 EVENCIO HORBINO: No because, he's on
19 my back. He's facing like this.

20 SPECIAL AGENT TONY BACA: Okay. Did
21 you see anything in front of him?

22 EVENCIO HORBINO: No I did not because
23 I was looking at his back.

24 SPECIAL AGENT TONY BACA: Okay. And
25 you heard him say commands to the individual?

Page 11

1 EVENCIO HORBINO: Yes.

2 SPECIAL AGENT TONY BACA: Questions,
3 sir?

4 INVESTIGATOR JASON CHILD: How quick,
5 what was cadence of the shots? You said there's
6 three or four shots.

7 EVENCIO HORBINO: Pop, pop, pop, pop.

8 INVESTIGATOR JASON CHILD: How many?

9 EVENCIO HORBINO: Three or four.

10 INVESTIGATOR JASON CHILD: How many
11 police officers did you see talking to him?

12 EVENCIO HORBINO: Two.

13 INVESTIGATOR JASON CHILD: And where
14 were they standing in relation what's out there?

15 EVENCIO HORBINO: One in the back, one
16 in the front.

17 INVESTIGATOR JASON CHILD: The back of
18 what? The front of what?

19 EVENCIO HORBINO: The back of squad
20 car.

21 INVESTIGATOR JASON CHILD: The SUV?

22 EVENCIO HORBINO: Yes.

23 INVESTIGATOR JASON CHILD: The SUV.
24 One in the back and then where was the other one?

25 EVENCIO HORBINO: One the front.

Page 12

1 INVESTIGATOR JASON CHILD: How close to
2 the SUV were they standing?

3 EVENCIO HORBINO: I think he is close
4 to the passenger side, the other one.

5 INVESTIGATOR JASON CHILD: Where?

6 EVENCIO HORBINO: Close to the door of
7 the squad car.

8 SPECIAL AGENT TONY BACA: That's where
9 one of them, and the other one was standing
10 where?

11 EVENCIO HORBINO: The one was on the
12 back following the guy. And then the other one
13 close to the passenger door side of the squad
14 car.

15 INVESTIGATOR JASON CHILD: And which
16 one shot?

17 EVENCIO HORBINO: The one on, the one
18 on the back.

19 INVESTIGATOR JASON CHILD: How many of
20 them shot, of the officers that you saw?

21 EVENCIO HORBINO: How many who shot?

22 INVESTIGATOR JASON CHILD: You said
23 there's two officers, right?

24 EVENCIO HORBINO: Yeah.

25 INVESTIGATOR JASON CHILD: Did both of

Page 13

1 them shot or just one?

2 EVENICIO HORBINO: No, just one, just
3 one.

4 INVESTIGATOR JASON CHILD: Okay. And
5 where was that one?

6 EVENICIO HORBINO: The one on the front
7 of the white truck. I'm sorry.

8 INVESTIGATOR JASON CHILD: You're okay.

9 EVENICIO HORBINO: The one on the back -
10 -

11 INVESTIGATOR JASON CHILD: The back of
12 the patrol car?

13 EVENICIO HORBINO: Yes.

14 INVESTIGATOR JASON CHILD: Okay.

15 SPECIAL AGENT TONY BACA: What was he
16 wearing? Do you remember what he was wearing?

17 EVENICIO HORBINO: Yeah. The police, I
18 don't know what, what color is that? Khaki.

19 SPECIAL AGENT TONY BACA: Any other
20 questions, Alvin?

21 SPECIAL AGENT ALVIN HERNANDEZ: Not
22 right now.

23 SPECIAL AGENT TONY BACA: Is it okay if
24 we contact you if we have any other questions?

25 EVENICIO HORBINO: Sure.

Page 14

1 SPECIAL AGENT TONY BACA: Okay. And I
2 got your phone number as --

3 EVENCIO HORBINO: (562) 773-3603. Oh,
4 that's the guy that has my driver's license, I
5 think.

6 SPECIAL AGENT TONY BACA: Do you have
7 photos or a movie?

8 EVENCIO HORBINO: No. This one is like
9 after.

10 SPECIAL AGENT TONY BACA: Anything that
11 you have, can we get a copy of or can you send it
12 to us right now?

13 EVENCIO HORBINO: That's just this one,
14 this to. That's it.

15 SPECIAL AGENT TONY BACA: Did you take
16 any pictures during the incident?

17 EVENCIO HORBINO: No, no.

18 SPECIAL AGENT TONY BACA: After the
19 incident?

20 EVENCIO HORBINO: This is after, this
21 is after like after a while.

22 SPECIAL AGENT TONY BACA: How are you?
23 Are you okay?

24 EVENCIO HORBINO: Yeah, because my boss
25 was asking where are you? I said I'm stuck on

Page 15

1 the freeway.

2 SPECIAL AGENT TONY BACA: You're
3 working right now?

4 EVENCIO HORBINO: Yes.

5 SPECIAL AGENT TONY BACA: Okay. Is
6 that a work car?

7 EVENCIO HORBINO: Yes.

8 SPECIAL AGENT TONY BACA: Okay. Where
9 do you work at?

10 EVENCIO HORBINO: Garden Grove.

11 SPECIAL AGENT TONY BACA: Garden Grove.

12 SPECIAL AGENT TONY BACA: What do you
13 do?

14 EVENCIO HORBINO: I'm accounts payable,
15 accounts receivable and a driver.

16 SPECIAL AGENT TONY BACA: Okay. Who
17 you work for?

18 EVENCIO HORBINO: Talsco Manufacturing.

19 SPECIAL AGENT TONY BACA: What do you
20 do?

21 EVENCIO HORBINO: Accounts payable,
22 accounts receivable.

23 SPECIAL AGENT TONY BACA: Okay.

24 EVENCIO HORBINO: And a driver.

25 SPECIAL AGENT TONY BACA: And a driver.

Page 16

1 You've got a lot of jobs. A lot of overtime, huh?

2 EVENCIO HORBINO: Yeah.

3 SPECIAL AGENT TONY BACA: All right.

4 Any other questions?

5 INVESTIGATOR JASON CHILD: I'm good.

6 SPECIAL AGENT TONY BACA: All right.

7 This concludes our interview. It's 1609. Thank
8 you, sir, for your time. And if I have any
9 questions, I'll be in contact with you.

10 EVENCIO HORBINO: You're welcome.

11 SPECIAL AGENT TONY BACA: Thank you.

12 (Interview concluded)

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Page 17

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the
foregoing transcript is a true and accurate
record of the proceedings.



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330 Old Country Road
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Mineola, NY 11501

Date: May 27, 2022

Page 18

Veritext Legal Solutions
866 299-5127

[06 - faster]

0	10:3 11:4,7,11,15	bit 5:24	describe 11:2
06 1:15	11:20,24 12:2	blind 11:10	door 13:6,13
1	13:8 14:15,19,21	boss 15:24	driver 16:15,24,25
105 4:5	14:23 15:1,6,10	c	driver's 3:5,8 8:22
11501 18:14	15:15,18,22 16:2	c 2:3,14 18:1,1	9:5,7 15:4
1558 2:2	16:5,8,11,12,16	cadence 12:5	driving 2:23 3:11
1609 17:7	16:19,23,25 17:3	california 1:13 2:4	3:14 4:19
17-0035 2:8	17:6,11	2:4	drugs 8:3
1954 2:18	alvin 2:7,8 14:20	car 3:1 5:1,10 6:25	e
2	14:21	7:19,19 8:11,15	e 2:14,14 18:1
2022 18:16	approximately 2:2	9:9,10 12:20 13:7	earlier 2:20
20868 2:10	asking 15:25	13:14 14:12 16:6	east 4:1
27 18:16	b	cars 5:3	evencio 1:15 2:12
3	b 2:3,15	certify 18:3	2:14,15,18,23
3 2:18 6:6,6	baca 2:1,3,11,16	child 2:9,10 6:12	3:12,15,20,24 4:2
300 18:13	2:19 3:10,13,17	6:15,19 7:11,13	4:5,8,12,17,20,25
330 18:12	3:22,25 4:3,6,10	8:8,12,17 10:10	5:4,9,19,23 6:3,6
3:58 2:2	4:14,18,22 5:2,6	10:13,17,20,23	6:10,14,16,22 7:4
4	5:17,21 6:1,4,8,20	11:1 12:4,8,10,13	7:7,9,12,14,17,23
4th 2:2	7:2,5,8,15,21,25	12:17,21,23 13:1	8:2,10,14,19,25
5	8:23 9:1,7,11,15	13:5,15,19,22,25	9:3,9,13,17,20,23
562 15:3	9:18,21,24 10:3	14:4,8,11,14 17:5	10:1,5,12,15,19
7	11:4,7,11,15,20	clearly 6:13	10:22,25 11:3,6,9
710 4:9,16	11:24 12:2 13:8	close 13:1,3,6,13	11:13,18,22 12:1
773-3603 15:3	14:15,19,23 15:1	closer 8:21 9:4	12:7,9,12,15,19
a	15:6,10,15,18,22	color 10:13,25	12:22,25 13:3,6
accounts 16:14,15	16:2,5,8,11,12,16	11:8,10 14:18	13:11,17,21,24
16:21,22	16:19,23,25 17:3	come 6:24	14:2,6,9,13,17,25
accurate 18:4	17:6,11	commands 11:25	15:3,8,13,17,20
acting 8:1	back 7:18,18 9:22	concluded 17:12	15:24 16:4,7,10
agent 2:1,7,8,11	10:8 11:19,23	concludes 17:7	16:14,18,21,24
2:16,19 3:10,13	12:15,17,19,24	contact 14:24 17:9	17:2,10
3:17,22,25 4:3,6	13:12,18 14:9,11	copy 15:11	eyes 6:18
4:10,14,18,22 5:2	backpack 10:11	country 18:12	f
5:6,17,21 6:1,4,8	10:14	d	f 18:1
6:20 7:2,5,8,15,21	bag 10:7	dark 5:24 10:15	facing 3:7,23,24
7:25 8:23 9:1,7,11	believe 10:6	date 2:16 18:16	11:19
9:15,18,21,24	bi 1:15	department 1:13	far 4:23
	big 5:23	2:4	faster 3:7 5:12,12
	birth 2:17		5:13,14 8:21 9:4

[first - police]

first 2:13 3:14	6:10,14,16,22 7:4	12:17,21,23 13:1	moving 6:21,22
followed 8:6	7:7,9,12,14,17,23	13:5,15,19,22,25	n
following 2:24	8:2,10,14,19,25	14:4,8,11,14 17:5	n 2:14,15 18:1
13:12	9:3,9,13,17,20,23	jobs 17:1	name 2:3,13,15
foregoing 18:4	10:1,5,12,15,19	justice 1:13 2:4	notice 9:14
four 5:1,2 10:19	10:22,25 11:3,6,9	k	number 2:8 15:2
12:6,9	11:13,18,22 12:1	kaki 11:3,9	ny 18:14
freeway 4:4,5,9,16	12:7,9,12,15,19	keeping 6:17	o
7:16 16:1	12:22,25 13:3,6	keeps 3:3	o 2:14,15,15 18:1
front 8:11 11:21	13:11,17,21,24	kept 5:11	officer 10:21 11:6
12:16,18,25 14:6	14:2,6,9,13,17,25	khaki 14:18	11:12,17
g	15:3,8,13,17,20	kind 5:23 8:2	officers 12:11
garden 16:10,11	15:24 16:4,7,10	10:15	13:20,23
gardener's 8:14	16:14,18,21,24	know 5:19 8:3,6	oh 7:7 15:3
go 3:7	17:2,10	10:9,16 11:12	okay 2:23 4:18,23
going 4:8 5:12 9:4	hours 2:2	14:18	5:7,22 6:15,19
good 17:5	huh 17:1	l	7:13 8:8 11:20,24
grove 16:10,11	hyde 18:3	la2022-00016 1:15	14:4,8,14,23 15:1
guy 2:25 3:1 5:9	i	lane 3:10,21 4:10	15:23 16:5,8,16
5:23 7:16 8:3,5	incident 2:20	4:12,15	16:23
13:12 15:4	15:16,19	ledanski 18:3	old 18:12
h	indiscernible 10:9	left 10:5,6	once 3:7
h 2:15	individual 11:25	legal 18:11	oof 9:9
hand 10:5,6,8	inside 10:9	lengths 5:1,2 7:20	overtime 17:1
hands 8:24 9:12	interview 17:7,12	license 15:4	p
9:16,19	investigative 2:5	listen 8:4	passenger 3:2,5
happened 2:20	investigator 2:9,9	little 5:24	13:4,13
4:24	6:12,15,19 7:11	look 3:7	patrol 3:1 5:10
heading 4:7	7:13 8:8,12,17	looked 5:22	7:19 9:10 14:12
hear 8:18 10:18	10:10,13,17,20,23	looking 6:17 11:23	payable 16:14,21
heard 5:12 6:13	11:1 12:4,8,10,13	looks 8:2	phone 15:2
11:25	12:17,21,23 13:1	lot 17:1,1	photos 15:7
hernandez 2:7,8	13:5,15,19,22,25	m	pictures 15:16
14:21	14:4,8,11,14 17:5	manufacturing	place 6:25
high 8:3	j	16:18	pointing 8:13 10:4
horbino 1:15 2:12	jason 2:9,10 6:12	mean 3:5 8:5	10:4 11:5
2:14,15,18,23	6:15,19 7:11,13	mile 7:10,11	police 2:5 3:2,6
3:12,15,20,24 4:2	8:8,12,17 10:10	mineola 18:14	5:10,13,15 6:1,24
4:5,8,12,17,20,25	10:13,17,20,23	movie 15:7	8:5,19 10:25 11:6
5:4,9,19,23 6:3,6	11:1 12:4,8,10,13		11:12,17 12:11

[police - white]

14:17 pop 12:7,7,7,7 present 2:5 probably 4:25 6:6 proceedings 18:5	shooting 2:5 4:24 shorts 5:20,21 shot 3:9 5:16 8:22 9:6 10:21 13:16 13:20,21 14:1 shots 10:18 12:5,6 side 3:2,5,5,8 4:1 8:22 9:5,7,23,24 10:1,2,4,5,6 13:4 13:13 silva 1:14 sir 3:19 4:17 12:3 17:8 slow 6:21,23,23 slowed 7:10 slowing 6:23 7:14 solutions 18:11 sonya 18:3 sorry 3:12 14:7 special 2:1,7,7,11 2:16,19 3:10,13 3:17,22,25 4:3,6 4:10,14,18,22 5:2 5:6,17,21 6:1,4,8 6:20 7:2,5,8,15,21 7:25 8:23 9:1,7,11 9:15,18,21,24 10:3 11:4,7,11,15 11:20,24 12:2 13:8 14:15,19,21 14:23 15:1,6,10 15:15,18,22 16:2 16:5,8,11,12,16 16:19,23,25 17:3 17:6,11 spell 2:12 squad 7:20 8:11 8:15 9:9 12:19 13:7,13 standing 12:14 13:2,9	start 7:3 started 6:23 7:6 stop 3:2,4,6,6 5:11 5:11,13,14,15,15 6:2,7,7,7 7:1,1 8:20,20,21 stopped 2:25 6:25 straight 8:5 stuck 15:25 sudden 2:24 6:24 suddenly 3:4 suite 18:13 sure 10:7 14:25 suv 12:21,23 13:2	8:23 9:1,7,11,15 9:18,21,24 10:3 11:4,7,11,15,20 11:24 12:2 13:8 14:15,19,23 15:1 15:6,10,15,18,22 16:2,5,8,11,12,16 16:19,23,25 17:3 17:6,11 toyota 4:20 traffic 6:21 7:7,9 transcript 18:4 traveling 4:16 truck 2:24 3:15,18 4:21 7:20 8:11,12 8:14 14:7 true 18:4 two 7:19 12:12 13:23
q		t	u
questions 12:2 14:20,24 17:4,9 quick 12:4		t 18:1,1 tacoma 4:20,22 take 15:15 talking 12:11 talsco 16:18 team 2:5 tell 2:21 6:5,9 7:1 telling 5:13 tells 3:2 thank 17:7,11 think 9:5 10:1,6 13:3 15:5 three 6:11 8:20 10:19 12:6,9 time 9:2,3 17:8 times 6:5,6,9,11 8:20 today 2:1,21 told 3:4,6 5:10,15 8:7,19 tony 2:1,3,11,16 2:19 3:10,13,17 3:22,25 4:3,6,10 4:14,18,22 5:2,6 5:17,21 6:1,4,8,20 7:2,5,8,15,21,25	uniform 11:14
r			v
r 2:15 18:1 ramon 1:14 ran 3:7 really 10:7 receivable 16:15 16:22 record 18:5 recording 3:18 regards 2:20 relation 12:14 remember 2:22 5:22 14:16 right 3:15 4:13,15 5:5 13:23 14:22 15:12 16:3 17:3,6 road 18:12 roi 1:15 run 3:4 running 2:25			v 2:14 veritext 18:11 video 3:19
s			w
saw 2:22,25 5:7 8:16 10:8 13:20 second 3:20 4:12 4:15 see 5:8,9,24 7:16 7:17 9:13,15,19 10:7,20 11:15,16 11:21 12:11 send 15:11			walking 3:3,3 5:9 5:12 7:22,23,24 8:9,10,25 10:8 way 3:22 5:24 8:9 wearing 5:18,19 10:24 11:8 14:16 14:16 welcome 17:10 went 5:13 8:21 west 3:25 4:2 westbound 4:16 white 4:19,20 8:15 10:16 14:7

[window - yeah]

window	6:12
words	6:2
work	16:6,9,17
working	16:3
y	
yeah	5:25 6:3,3,14 6:22 7:12 9:4 10:12 13:24 14:17 15:24 17:2

California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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